



**DEPARTMENT OF THE NAVY**  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

█  
Docket No. 10513-23  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 30 January 2024. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove your 3 March 2022 Non-judicial Punishment (NJP) and all associated documents from your Official Military Personnel File (OMPF) as well as the restoration of all rights and privileges associated. The Board also considered your request for compensation for the Skillbridge Program. The Board considered your contention that you were innocent as well as your claim that the NJP finding was based on false statements and made up witnesses.

The Board noted, on 3 March 2022, you received NJP for Violation of the Uniform Code of Military Justice (UCMJ), Articles 89 and 92. As punishment, you were reduced to corporal, restriction for 30 days, and you received forfeiture of \$707 pay for two months, which was suspended for six months.

In regards to your contention that the NJP was unjust and improperly conducted, the Board determined that you provided insufficient evidence in support of this claim. Rather, the Board considered the 17 January 2022 Police Report, as well as the Command Duty Officer of the Day log, and determined the CO had sufficient evidence to find you guilty of the charged misconduct. The Board was not persuaded by your arguments of falsified evidence and noted you provided no evidence to substantiate your contention. Moreover, the Board determined that the Marine Corps properly followed all of its procedures for awarding an NJP. You were advised of your right to refuse NJP and demand trial by court-martial in lieu of NJP, but you chose not to. You were also given an opportunity to consult counsel prior to accepting NJP. You agreed to accept NJP subject to your right of appeal, but you did not appeal. The Board thus determined that your Commanding Officer was well within his discretionary authority to impose NJP. Thus, the Board determined that you provided insufficient evidence in support of this claim. As a result, the Board concluded that there is no probable material error or injustice warranting removal of your NJP and the associated documents or restoration of any rights and privileges associated with the NJP.

Regarding your request for compensation for the Skillbridge Program, the Board noted that pursuant to NAVMC 1700.2A, command approval is required to participate in the program and final authority rests with the first field grade commander with court martial convening authority. In your case, on 15 November 2023, the CO, Headquarters Battalion disapproved your request based upon the extensive disciplinary actions you had while in the command, as was his right to do. Thus, the Board concluded there is no probable material error, substantive inaccuracy, or injustice warranting compensation to you for the program. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Finally, the Board determined there was insufficient evidence to conclude you were the victim of reprisal in violation of 10 USC 1034. 10 USC 1034 provides the right to request Secretary of Defense review of cases with substantiated reprisal allegations where the Secretary of the Navy's follow-on corrective or disciplinary actions are at issue. Additionally, in accordance with DoD policy you have the right to request review of the Secretary of the Navy's decision regardless of whether your reprisal allegation was substantiated or non-substantiated. Your written request must show by clear and convincing evidence that the Secretary of the Navy acted arbitrarily, capriciously, or contrary to law. This is not a de novo review and under 10 USC 1034(c) the Secretary of Defense cannot review issues that do not involve reprisal. You must file within 90 days of receipt of this letter to the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Office of Legal Policy, 4000 Defense Pentagon, Washington, DC 20301-4000. Your written request must contain your full name, grade/rank, duty status, duty title, organization, duty location, mailing address, and telephone number; a copy of your BCNR application and final decisional documents; and, a statement of the specific reasons why you are not satisfied with this decision and the specific remedy or relief requested. Your request must be based on factual allegations or evidence previously presented to the BCNR, therefore, please also include previously presented documentation that supports your statements.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new matters,

which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

2/28/2024

